State–Federal Judicial Observer

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Roles of State and Federal Courts Examined at Mass Tort Conference

by James G. Apple

Critical questions about the role in society of both state and federal courts were raised at the first National Mass Tort Conference, which was held in Cincinnati from November 10–13.

Participants at the conference included 130 state judges and 46 federal judges, as well as court administrators, lawyers, and legal scholars.

The conference opened with a videotaped address by Chief Justice of the United States William H. Rehnquist, who reminded the attendees of Alexander Hamilton's description of the state and federal systems as "one whole."

Judge Robert M. Parker (U.S. 5th Cir.) told the audience that "a fundamental issue raised by modern complex mass tort cases is: What role do we want our courts to play in our society?"

He said that "the relevance of courts in modern times is in direct relationship to how well we meet the expectations of our citizens."

Are we "going to remain with an 1825 model for courts?" he asked.

Zöe Baird, senior vice-president and general counsel of Aetna Insurance Company, sounded a similar theme in her remarks in the opening panel discussion of the conference. Unless courts find ways to deal efficiently and justly with such modern court phenomena as mass tort cases, she said, "citizens will get disillusioned with the judicial system and go elsewhere."

Speakers reviewed and evaluated the various techniques and procedures that courts around the country have used to expedite mass tort cases—what one speaker termed "creative judicial management"—including:

- use of special masters and discovery masters to expedite discovery and pretrial proceedings;
- systematic and frequent communication between state and federal judges in the handling of specific cases pending in both systems;
- judicial education on scientific issues;
- aggregation of cases for discovery and trial;
- joint use of court facilities by state and federal judges;
- use of independent experts for the evaluation of scientific evidence;
- early resolution of scientific issues;
- use of computer technology such as CD ROM to keep track of documentary evidence and all counsel in specific cases and to keep track of the existence and status of cases in different state and federal courts;
- establishment and use of central document depositories;
- use of state–federal judicial councils for communication between state and federal judges on specific issues and for education of state and federal judges on mass tort case issues and procedures;
- making jury trials more comprehensible to judges and juries by such innova-

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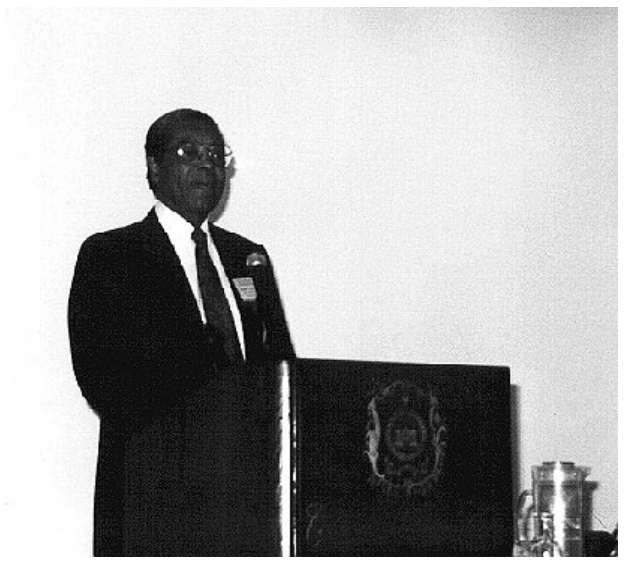
Administrative, Litigation Coordination Emphasized at Williamsburg S–F Meeting

Over 80 state and federal judges and court administrators gathered in historic Williamsburg, Va., on November 14 for a two-day convention on state–federal relationships in the Middle Atlantic states.

The conference focused on four central themes: administrative and litigation coordination between state and federal courts (including the role of state–federal judicial councils); criminal case processing in state and federal courts; funding processes and legislative initiatives affecting the judiciaries of the two systems; and the future of judicial federalism.



At the state–federal judicial relationships conference in Williamsburg in November, Judge Matthew J. Perry, Jr. (U.S. D. S.C.) discussed nationwide coordination of L-Tryptophan litigation.

Discussions of coordination of administration and litigation in the two court systems centered on three areas: mass tort cases, bankruptcy cases, and state–federal judicial councils. Judge Johanna L. Fitzpatrick (Va. Ct. App.) moderated a panel discussion that included an analysis of approaches to the resolution of complex mass tort cases by Judge Larry V. Starcher (W. Va. 17th Cir.) and Judge Matthew J. Perry, Jr. (U.S. D. S.C.). Richmond litigator Deborah M. Russell reviewed in detail class actions and pretrial consolidation approaches to such cases.

U.S. Supreme Court Justice Sandra Day O'Connor gave the keynote address to open the conference. She said that "part of the beauty of our federalism is the diversity of viewpoint it brings to bear on legal problems. Under our system, the 50 state supreme courts, 13 United States courts of appeals, and countless trial and intermediate appellate courts may bring diverse experiences to bear on questions that, because of the Supremacy Clause [of the U.S. Constitution], they must answer in common."

She reminded the audience that "maintenance of the federal–state balance is the responsibility of both the federal and state courts . . . it is not unlike a successful marriage. Reciprocal awareness of their

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What State Judges Need to Know About Bankruptcy Cases

Bankruptcy cases create a major area of friction between state and federal courts—especially bankruptcy stays of state court lawsuits. Much of the friction arises because state trial judges lack understanding of the nature, extent, and effects of "automatic stays" under the U.S. Bankruptcy Code. The American Bankruptcy Institute is a private, nonprofit organization in Washington, D.C., devoted to education and research on bankruptcy issues. It has identified eleven questions commonly asked by state judges about bankruptcy stays and has developed answers to these questions.

The questions and answers as supplemented or developed by the Federal Judicial Center are presented below. Elaboration to some of the answers has been provided by Bankruptcy Judge Sidney B. Brooks (U.S. D. Colo.). More detailed information about bankruptcy issues can be found in the American Bankruptcy Institute's recent publication, *Bankruptcy Issues for State Trial Court Judges 1993*, developed through a grant from the State Justice Institute. Copies of this publication ($10 each) can be obtained from the American Bankruptcy Institute, 510 C Street N.E., Washington, DC 20002, phone: (202) 543-1234. (*Note:* Some of the information in the publication may have been affected by recent changes in the bankruptcy laws.)

1. Question: What sort of actions, motions, and proceedings in state court are not stayed by a bankruptcy filing?
Answer: Certain actions are excluded by statute from the operation of the automatic stay. The following are common ones: most criminal actions against the debtor; alimony, maintenance, or support collection actions from property other than property of the bankruptcy estate (e.g., collections from property acquired after the debtor files a chapter 7 petition); paternity actions; and police or regulatory enforcement actions (e.g., consumer protection and environmental actions). The statutory exceptions from application of the stay appear at 11 U.S.C. § 362(b).

2. Question: Could a state court judge action violate a bankruptcy stay?
Answer: Yes. While it is more likely that a party or counsel for a party would be acting contrary to the automatic stay, a state court judge could violate it in a myriad of ways, ranging from conducting a pretrial conference in a mortgage foreclosure action to a trial of a contract dispute. Essentially any act outside the bankruptcy court that moves a matter forward on a claim against a debtor or property of the estate during the pendency of a bankruptcy violates the stay. As a practical matter, however, only acts in willful violation of the stay would result in sanctions, from which state court judges would probably be immune.

There are several areas where the automatic stay does not apply, and thus a state court judge may act. See answer to Question #1.

Determining what is not covered by the stay can be tricky. When in doubt, the state judge should refrain from going forward and advise the parties to obtain relief from the stay in the bankruptcy court. The process to do so is relatively swift and self-executing, if not opposed. It is usually treated on a relatively expedited basis.

The stay otherwise expires automatically on the closing or the dismissal of the case, or when a discharge is entered. Typically a discharge is entered about 100 days after an uncomplicated chapter 7 case is filed or at the successful conclusion of a chapter 13 plan.

Note: If a defendant files for bankruptcy shortly before the commencement of a state court action, quick relief from the stay might be obtained by the other litigants if they immediately apply to the bankruptcy court and justify prompt modification of the stay. Bankruptcy judges are not likely to condone unfair litigation tactics, and they may wish to abstain in favor of a case being better tried in a state court.

3. Question: In a lawsuit before a state judge, three defendants are alleged to be joint tortfeasors. The state law provides for percentage apportionment of liability. One of the three defendants files bankruptcy.
(a) Can the case proceed?
(b) Should it?
Answer: (a) Maybe. In a state that apportions liability by percentage, the case against three joint tortfeasors could proceed against two of them after the third files bankruptcy. If the state law requires that joint tortfeasors be tried together, then the case could not proceed against any of the tortfeasors unless the bankruptcy court grants relief from the stay.

(b) No. The case should not proceed until the plaintiff or a codefendant obtains relief from the automatic stay.

4. Question: (a) A defendant in a tort suit files bankruptcy. All parties before the state judge acknowledge that the defendant is covered by insurance and that the liability of the defendant will be limited by the extent of the coverage. Does the state judge need a bankruptcy court order to proceed with the tort action while the bankruptcy case is pending?

(b) Once the discharge injunction has been entered and the bankruptcy case closed, may the plaintiff in the tort action proceed against the debtor in state court as a nominal defendant if such action is necessary to prove liability as a prerequisite to recovery from the liability insurer?
Answer: (a) Yes. Even in tort cases where a defendant is insured and liability is limited to the extent of the coverage, a party should seek an order granting relief from the automatic stay or remove any doubt about the effects of proceeding with the action. (See also answer to Question 3.)

(b) Yes. The discharge of the debtor extinguishes personal liability but does not release third persons, including insurance companies, from liability. No modification of the discharge injunction entered by the bankruptcy court is necessary, if such action is necessary to prove liability as a prerequisite to recovery from the liability insurer.

5. Question: (a) Can the bankruptcy court reexamine or undo awards of child support,

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Inside . . .

Zobel Named FJC Director; Will Assume Duties in April

Judge Rya W. Zobel (U.S. D. Mass.) has been selected by the Board of the Federal Judicial Center as the Center's new director, to succeed Senior Judge William W Schwarzer (U.S. N.D. Cal.), who reaches the statutory retirement age as FJC director next April. Judge Schwarzer has served as the Center's director since 1990.

Judge Zobel was appointed U.S. district judge in 1979. She graduated with honors from Radcliffe College in 1953, and then from the Harvard Law School. She entered private law practice after serving as a law clerk to Judge George C. Sweeney (D. Mass.), becoming a partner in the firm Goodwin, Proctor & Hoar.

Earlier this year she completed a four-year term as chair of the Judicial Conference's Committee on Automation and Technology. She also had been a member of the Conference's Committee on the Operation of the Jury System and its Committee on Judicial Improvements. She chaired the American Bar Association's National Conference of Federal Trial Judges in 1991–92.

She will be the seventh director of the Federal Judicial Center, which was established in 1967. ❑

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respective roles helps each partner carry out their joint responsibility. There must be a healthy dialogue on open federal questions and respect for the interests and needs of each partner."

Judge William W Schwarzer, director of the Federal Judicial Center, outlined the advantages of state–federal judicial councils. He told the participants that "judges talking to each other is the most effective form of education."

"Communication is a great untapped resource" for judges from both systems, he stated. "And state–federal judicial councils provide the means for effective communication between state and federal judges."

Plato Cacheris, a criminal defense lawyer of Washington, D.C., and Alexandria, Va., moderated a panel of state and federal judges and prosecutors that focused on the effects of concurrent jurisdiction on the prosecution of criminal cases in state and federal courts. The panel used a hypothetical case and discussed it in the context of the federal crime bill enacted earlier this year.

Former congressman Robert W. Kastenmeier of Wisconsin, who served on the Committee on the Judiciary of the U.S. House of Representatives and chaired the House Judiciary Subcommittee on Administration of Justice and Intellectual Property, outlined congressional action from 1965 to 1994 that affected the state judiciary and involved either directly or indirectly state–federal cooperation. Kastenmeier told the participants that "Congress needs knowledge and input" through hearings and other means "about the impact of federal legislation on state courts."

The conference concluded with comments by two legal academicians who specialize in the study of judicial federalism, Prof. Thomas E. Baker, of Texas Tech University School of Law, and Prof. Daniel J. Meador, of the University of Virginia School of Law.

Prof. Baker discussed judicial federalism in the 21st century, covering such subjects as privatization of litigation procedures, user fees as replacements for filing fees, pro bono judges, computerized courtrooms, paperless clerks' offices, and collaboration and cooperation between state and federal judges.

For resolving problems arising from the federalization of crime and for increasing cooperation between state and federal courts, Prof. Meador suggested the following ideas: the creation of state–federal prosecutors councils; development of guidelines for state and federal prosecutors for cases with overlapping state–federal jurisdiction; interbranch seminars at the state and federal level; and state–federal programs at U.S. circuit judicial conferences.

Judge F. Gordon Battle (N.C. Super. Ct.), who attended the conference, said that "the presentations were very helpful in demonstrating the need for more communication and cooperation between state and federal judges. I think we will see that happen in North Carolina."

A summary of the conference proceedings will be prepared and distributed by William K. Slate, advisor–reporter for the conference. The conference was funded by a grant from the State Justice Institute. ❑

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A note to our readers

The *State–Federal Judicial Observer* welcomes comments on articles appearing in it and ideas for topics for future issues. The *Observer* will consider for publication short articles and manuscripts on subjects of interest to state and federal judges. Letters, comments, and articles should be submitted to Interjudicial Affairs Office, Federal Judicial Center, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Washington, DC 20002-8003.

OBITER DICTUM

Sabbaticals for State and Federal Judges: Necessary in the Pursuit of Judicial Excellence

by Professor Ira P. Robbins
Washington College of Law
The American University

State and federal judges have a hazardous occupation. With large workloads and small staffs, they live a life of intensity, the result of the never-ceasing round of difficult decisions that can affect the freedom or the lives of human beings or dispose of millions of dollars.

Judges also live a life of contradiction. At once they must be action oriented, person oriented, deductive, inductive, authoritative, convincing, just, and compassionate. Add to this the constant struggle over quality and thoroughness, the concern about living up to individual and institutional expectations, the lonely transition from practice or teaching, the social isolation, the financial pressure, the lack of objective feedback, and the absence of control over caseload or clientele, and the toll on the quality of judges' lives becomes obvious.

A judge recently asked psychiatrist Walter Menninger, "What can I do on the bench that will reduce the urge to scream?" One good answer is: "Take a sabbatical."

Virtually every article calling for judicial sabbaticals mentions stress or "burnout." The late Judge Wade McCree, Jr., who served on the federal trial and appellate bench and as U.S. Solicitor General, termed it the "judicial blahs." Oregon Supreme Court Justice Ralph Holman referred to it as life in a "decisional squirrel cage."

Judge Tim Murphy, in his 1985 letter of resignation from the Superior Court of the District of Columbia, wrote:

> Time away from the constant stress of dealing with human conflict and misery, to reflect on what justice is all about, would surely make for an even stronger and better court. . . . [I]t is presently a matter of "quit or die" to get a respite. I am opting for the former.

Judge Peter Wolf, of the same court, wrote of a "memory overload problem":

> [Being a judge] is constant, never-ending, tiring, limiting (of one's outlook and activities) and pervasive. Decisions, however close, must be made, should be made promptly, and the need for a decision will almost never go away. Time for thorough research is an infrequent luxury. . . . [A judge] can never relax.

On the federal side, former U.S. Chief Judge Aubrey Robinson, Jr. (Dist. D.C.), when asked what would be the most important single change he would make in the way the federal judiciary operates, responded: "The establishment of a sabbatical leave for every judge."

Going beyond just the need to reduce stress on the bench, Judge Robinson argued for judges to have an opportunity "to get some perspective, to explore some areas of the law in depth, to think about what's coming down the line, to determine whether we want to spend the rest of our life on the bench." He recommended a leave of from 6 to 12 months, with eligibility after 10 years on the bench. The sabbatical would be fully paid and would have no restrictions.

From their Hebraic origins to their current use in academia, government, business, and industry, sabbatical leaves have helped people relax, reflect, rethink, and rejuvenate. These opportunities have benefited both individuals and their institutions. Over 90% of all universities provide sabbatical leave for faculty members, and many major companies have some form of sabbatical.

IBM, for example, provides many of its employees with a one-year sabbatical, at full pay, to share their knowledge and experience in meaningful ways, such as teaching handicapped students. Xerox grants sabbaticals for such "socially responsible" activities as helping refugees or abused children. American Express began a sabbatical policy in 1991 that allows six months leave time for employees, but requires the time off to be used for community development or for educating others. One American Express employee used her six-month leave to work in a hospice.

Other companies have gone further. McDonald's Corp., for example, gives eight weeks of unrestricted leave with pay every ten years for all regular employees. Apple Computer Corp. urges all full-time employees to take six weeks off with pay every five years. And Time, Inc., has provided its employees with one year off with full pay after 15 years of work, with no restrictions.

One company president, upon returning from a six-month sabbatical as a visiting fellow at the London Graduate School of Business, told of how he had gotten "not [just] a recharged battery, but a new motor." He then proceeded to study sabbatical leave policies at each of the Fortune 500 industrial companies and concluded, "When you grant free time to an educated man with an inquisitive mind, he is likely to use it reasonably well and bring benefits to himself, his company, and his social environment."

Some law firms, large and small, believing that to be only a lawyer is to be only half a lawyer, have offered similar opportunities. When Senior Judge Louis Oberdorfer (U.S. D. D.C.) was a lawyer with Wilmer, Cutler & Pickering, for example, he took a sabbatical leave to work for the Neighborhood Legal Services Program.

Another Wilmer, Cutler lawyer, who spent six months backpacking through Nepal, India, and other Asian countries, described his odyssey as a "humbling, provoking, and in some ways disturbing experience." He added, "It raised important questions about what I and my fellow lawyers want to do with our lives and talents."

Sabbatical leaves have permitted lawyers to get out from under their encrusted habits and practices, to reorder their priorities, to have an opportunity for self-development and self-discovery. Whether they read good books, learn about art or music, give time to retarded children, discover other cultures, or spend more time with their families, those lawyers who have taken sabbaticals have found themselves in a position to make more informed social, political, and professional judgments.

In light of these advantages, why are sabbatical leaves not provided for judges? Shouldn't judges have perspective and insight? Shouldn't judges have the time to read something other than law books? Isn't it desirable for them to be able to confront our vast society firsthand, not just in the courtroom? The answer should be a resounding "yes," for the good of society as well as for the judges.

What stands in the way? Only Alaska, California, and Oregon now allow judges to take leaves of absence—but without pay. The chief justice of Puerto Rico had been considering the use of paid sabbatical leaves, but the proposal was never implemented.

See OBITER DICTUM, page 4

Court Technology Conference Covers Variety of Technical Innovations

Participants in the Court Technology Conference in Nashville examine a court software support system that was part of the 96 exhibits and demonstrations held during the four-day convention in mid-October. The conference was funded by the State Justice Institute.

The Fourth National Court Technology Conference (CTC4) in Nashville, Tenn., in mid-October covered technology developments and innovations for use in America's state and federal court systems—from the court clerk's office to the courtroom, from the filing of a complaint or the conducting of an arraignment to trial and final judgment, from pretrial discovery for lawyers to opinion writing by judges.

The conference, sponsored by the National Center for State Courts and funded by a grant from the State Justice Institute, attracted over 2,400 attendees—judges, court administrators, technology experts, consultants, and legal scholars from every part of the United States—to the 39 educational sessions and 96 exhibits and demonstrations conducted over a four-day period.

Several of the educational sessions held special appeal for judges. One session focused on the Midtown Manhattan Community Court as a "model in technology" and demonstrated "how judges and other staff used the Electronic Judicial Desktop—a system that displays comprehensive criminal information pertaining to arrest, criminal record, charge, complaint, and plea agreement status."

Another session featured a presentation of software that "enables courts to organize, personalize, maneuver, consume, and share diverse types of information, customized as 'The Judges Workdesk.'"

Artificial intelligence (AI) for judges was described in one session—"how judges can use AI-based systems in the decision-making process." Two computer software programs—Judicial Expert Decision Aid (JEDA), developed for repetition-type cases, such as black lung and other occupational disease litigation, and Law Clerk, created to assist in the preparation of opinions in cases involving fraud relating to food stamp benefits—were demonstrated.

Another session, titled "Technology at the Bench," outlined "technology to expedite dockets." Judge Michael E. Donohue (Wash. Super. Ct.) of Spokane, Wash., discussed electronic legal research, indexed note taking and retrieval systems, computer tables incorporating sentencing and child support guidelines, and electronic mail and facsimile transmission for quick communication by judges.

Several focal issues relating to court technology emerged from the conference sessions, exhibitions, and demonstrations:

• the opportunities and advantages of video conferencing to reduce or eliminate the need for physical in the preparation and conduct of trials;

• the advantages of real-time court reporting (stenotype transcripts immediately displayed on TV monitors for judge and jury);

• the varieties of personal, computer-based, case-management systems available for court clerks' offices;

• the advances in court technology to assist judges and juries in the understanding of evidence;

• the scientific and technical issues arising in litigation created by advanced technology; and

• the usefulness of kiosk technology to assist citizen consumers of legal services in understanding and using court systems.

Kiosk technology was demonstrated using two existing systems: Quickcourt, from Arizona; and Autocourt, from California. The Arizona system, a service system rather than an information system, was installed in 1993 in three sites in Phoenix and Tucson and has served approximately 24,000 "customers."

One new feature of the technology conference was the "PC Laboratory," which permitted participants personally to try various court software systems.

The first three technology conferences, all sponsored by the National Center for State Courts (with funding from the State Justice Institute), were held in 1984, 1988, and 1992. The NCSC is planning a fifth technology conference for 1997 in Detroit.

Papers delivered at the conference were placed on a computer diskette that was mailed to attendees before the conference. The diskette also included a list of exhibitors and exhibitor contact information. Additional copies of the diskette can be ordered for $10 each (includes handling and mailing) by calling (804) 259-1850. A videotape of three keynote addresses given at the conference (by medical–legal consultant Cyril H. Wecht, law professor George B. Trubow, and cultural anthropologist Jennifer James) can be ordered for $30 by calling the same number. ❑

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alimony, or attorney fees made in a divorce action?

(b) If so, to what extent?

Answer: (a) Yes. Since support and alimony awards are generally nondischargeable, questions often arise about the characterizations or labels of those awards (as well as attorney fee awards) and their relation to property settlement obligations, which are generally dischargeable, except as provided for in 11 U.S.C. § 523(a)(15).

(b) Bankruptcy courts will not be bound by the characterizations or labels given to the debts in a state decree or settlement. Accordingly, bankruptcy courts may undo such state court awards if their characterizations are inconsistent with the parties' true intentions and dischargeability rights.

6. Question: (a) Once a party to a lawsuit before a state judge has filed bankruptcy, can one or more of the parties remove the entire lawsuit or part of it to the bankruptcy court for determination?

(b) Can the bankruptcy court remand the action back to the state judge for determination?

Answer: (a) Yes. All or part of the state court lawsuit can be removed.

(b) Yes. The bankruptcy judge will likely remand state lawsuits that are traditionally determined in state court.

7. Question: (a) What state court judgments are nondischargeable under the different bankruptcy chapters?

(b) Can such nondischargeable judgments be collaterally attacked in the bankruptcy court?

Answer: (a) Examples of final state court judgments that may be nondischargeable in a subsequent chapter 7 case of an individual debtor include the following: money judgments based on fraud, embezzlement, larceny, willful or malicious injury to the person or property of another; and money judgments for death or personal injury arising for intoxicated driving incidents. The reorganization chapters (11, 12, and 13) generally provide broader discharge opportunities than are available to chapter 7 debtors.

A creditor who desires to have his or her claim or judgment against a debtor excepted from the debtor's discharge should initiate an adversary proceeding in bankruptcy court to have the claim adjudicated. Certain adversary proceedings must be brought in bankruptcy court within a specified time. 11 U.S.C. § 523(c)(1). The state court has concurrent jurisdiction to determine the discharge ability of certain debts. A creditor's failure to initiate an adversary proceeding, particularly where some type of wrongdoing is alleged (fraud, willful and malicious injury, etc.), is likely to result in a discharge of that judgment.

Note: A state court judgment that is based on specific and appropriate findings of fact and conclusions of law is more likely to be adopted by, or otherwise served to estop collaterally, the bankruptcy court when the court is presented with the issue of dischargeability of that judgment.

(b) Yes. Default judgments or issues not fully litigated in state court are subject to collateral attack in bankruptcy court, but collateral estoppel applies in bankruptcy proceedings to matters that have been fully litigated in state courts.

8. Question: If a debtor files a chapter 13 bankruptcy, can he or she discharge judgments for embezzlement, fraud, intentional torts, and driving under the influence of alcohol and drugs?

Answer: Money judgments based on driving while intoxicated are not dischargeable in chapter 13, but money judgments for embezzlement, fraud, and intentional torts are. In chapter 13 proceedings, debtors usually agree to pay creditors from future income over an extended period of time pursuant to a plan approved by the bankruptcy court. Such a debtor is not entitled to discharge until the successful completion of payments under the plan.

9. Question: Are there any circumstances where restitution or fines in a state criminal case are dischargeable?

Answer: Fines and restitution in state criminal cases are nondischargeable in bankruptcy cases filed on or after October 22, 1994. Both fines and restitution in state criminal actions are nondischargeable in chapter 7 cases filed before October 22, 1994. Restitution is nondischargeable, but fines are dischargeable in chapter 13 cases filed before that date.

10. Question: The defendant in a collection suit in state court affirmatively alleges discharge in bankruptcy. Can the state court resolve this issue, or is the dischargeability issue only within the jurisdiction of the bankruptcy court?

Answer: Only bankruptcy courts can determine whether to grant or deny a discharge in bankruptcy, but state court judges can ascertain whether discharge has in fact been granted or denied through evidentiary methods of proof.

11. Question: A lawyer for a party calls and advises the state judge that a client has filed bankruptcy. How can this be verified?

Answer: The state judge or his or her clerk may call the bankruptcy court clerk's office, or seek access to the docket electronically if such technology is available. Phone numbers for clerks' offices appear in the ABI publication referenced above and in the "Government Listings" of most telephone directories under United States Government, Courts, District Court for (Name of Federal District), Bankruptcy Court, Clerk's Office. An alternative is for the state judge to require the debtor's lawyer to file with the state court a date-stamped copy of the debtor's filed bankruptcy petition, and/or the Official Bankruptcy Form 9, "Notice of Filing Under the Bankruptcy Code, Meeting of Creditors and Fixing of Dates," after such form has been issued by the bankruptcy court. ❑

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tions as jury note taking and use of modern computer and communications technology; and

• recognition in appellate courts of differences between mass tort cases and "garden variety" cases to allow for more flexibility in dealing with them.

Participants also visited the Potter Stewart U.S. Courthouse in Cincinnati for technology demonstrations in one of the courtrooms.

Judge Carl B. Rubin (U.S. S.D. Ohio) and members of his staff gave a review of his "courtroom of the future" and, using three video monitors in front of a jury box, demonstrated how such monitors are used in the presentation of evidence.

Complex Litigation Automated Docketing (CLAD), a paperless docketing system created for the Delaware court system and its high volume of corporate cases, was the subject of a discussion by Judge Susan C. Del Pesco (Del. Super. Ct.), who originated the concept for the computer program.

Chief Judge Sam C. Pointer, Jr. (U.S. N.D. Ala.) demonstrated the computer software system he developed for the coordination of breast implant cases pending in state and federal courts nationwide.

The national conference of judges and court officials was the first to deal with the issue of mass tort cases in the courts.

Proceedings of the conference will be reported in a forthcoming issue of the *Texas Law Review*.

The conference was sponsored by the State Justice Institute, the Federal Judicial Center, the Judicial Conference of the United States, the Mass Tort Litigation Committee of the Conference of Chief Justices, the National Center for State Courts, and the National Judicial College. ❑

Ann Tyrell Cochran, standing to right, claims administrator for the Silicon Breast Implant Settlement Fund, leads one of the small-group discussions at the mass tort conference in Cincinnati in November. Also present were Judge Edward Rafeedie (U.S. S.D. Cal.), left, and Justice Joan B. Lobis (N.Y. Sup. Ct.), seated to right.

Court Building Wins National Trust Honor Award; Project Seen as Model for Other State, Federal Courts

The restoration project that transformed historic Union Station in Tacoma, Wash., into the home for the U.S. District Court for the Western District of Washington received a 1994 Honor Award from the National Trust for Historic Preservation. The award was presented at the Trust's annual fall conference in Boston in October.

The project was cited for the "unique and creative reuse of [a] historic railroad depot by putting courts into the building" and "high quality rehabilitation." It was one of 17 awards presented by Richard Moe, president of the National Trust.

Peter H. Brink, vice president for programs, services, and information at the National Trust, said he had visited the new court building and saw it as a model for state and federal courts throughout the country.

"I hope the Honor Award will inspire state and federal courts in every state not only to preserve historic courthouses but to consider other historic buildings in the community for adaptive reuse for courthouse replacement or expansion projects," Brink said.

Chief Justice Randall T. Shepard (Ind. Sup. Ct.), a trustee of the National Trust, said that "the Tacoma project suggests that the elegance usually associated with courthouses can be found in other types of structures, such as train stations, that make them appropriate for adaptation as court facilities."

The Honor Award is the first given to a courthouse project since 1976, when the restoration of the Old Federal Court Building in St. Paul, Minn., was recognized. In 1992, the restoration in Philadelphia of the Wannamaker Department Store, which includes a center for complex litigation for the Philadelphia court system, won an Honor Award. The Honor Awards, begun in 1971, "recognize individuals, corporations, and organizations that demonstrate exceptional achievement in the preservation, rehabilitation, restoration, and interpretation of America's architectural and cultural heritage."

Tacoma's restored Union Station, which now houses courtrooms and offices of the U.S. District Court for the Western District of Washington, received an Honor Award from the National Trust for Historic Preservation in Boston in October.

Judge Robert J. Bryan (U.S. W.D. Wash.), a tenant of the building, wrote in support of the nomination of the project for the award that "not only has the restoration of Union Station been successful in terms of being faithful to historic features, but it is also successful in its transformation into a modern United States courthouse. . . . The architectural design is a marvelous combination of historic preservation and modern usage."

The restored building contains eight courtrooms. The courtrooms are located in the former dining and "ladies retiring rooms." Judges' chambers are placed adjacent to the former baggage and "men's smoking rooms." Court support staff offices are quartered in the lower working floors of the old depot, with the law library installed in the old freight rooms and the court clerk's office established in the former telegraph office.

The train station, built in the Beaux Arts style in 1911, was abandoned in 1984. The city of Tacoma purchased the site from the railroad, paid for the restoration costs of the building and adjacent structures, and entered into a long-term lease with the General Services Administration to house the federal court operations in the city. ❑

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Any concrete plan for paid leave must address such difficult questions as eligibility, frequency, duration, compensation, benefits, seniority, procedures, restrictions, and conditions. Questions of cost and case coverage will be paramount.

Yet the direct cost—the payment of the salary of an individual who may not be directly contributing to the judiciary during the sabbatical—is misleading, for it must be balanced against the direct and indirect benefits and savings. These include:

- improving efficiency, productivity, and morale;
- enhancing judges' creativity and reflective powers;
- providing the opportunity for educational development and professional and personal growth;
- attracting more highly qualified individuals to the bench;
- decreasing attrition and its attendant costs;
- improving judges' contact with the communities whose interests they serve; and
- reducing stress.

As for caseload coverage, if judicial sabbaticals prove to be productive, as I believe they will, creative case management will be essential. This may include, for example, the use of temporary judges, visiting judges, and senior judges (who in the federal system already contribute the equivalent of the work of about 70 full-time judges each year).

Like lawyers and teachers, judges have enormous influence in our society. For our collective good as well as their individual benefit, judges need the precious gifts of time and perspective to sustain their pursuit of judicial excellence. ❑

Bankruptcy Education Seminar Planned for State Judges from Midwest

The American Bankruptcy Institute (ABI) will conduct a two-day bankruptcy education seminar for state judges on January 13–14 in St. Louis.

Seventy judges from Missouri, Iowa, Minnesota, Nebraska, Wisconsin, North Dakota, and South Dakota will attend sessions at the John M. Olin School of Business at Washington University.

The seminar will familiarize participants with general bankruptcy laws and procedures and assist them in understanding the effects of bankruptcy stays and other bankruptcy procedures on state court proceedings.

One session will feature methods of replicating the bankruptcy seminar in individual states.

Guest speaker for the conference will be Judge David R. Hansen (U.S. 8th Cir.). Faculty for the seminar include U.S. bankruptcy judges James J. Barta (E.D. Mo.), Charles N. Clevert (E.D. Wis.), Lee M. Jackwig (S.D. Iowa), Timothy J. Mahoney (D. Neb.), George C. Paine II (M.D. Tenn.), Barry S. Schermer (E.D. Mo.), and Mary D. Scott (E.D. and W.D. Ark.).

ABI has conducted education programs to acquaint state judges with bankruptcy issues in 27 states since 1992. It received a $25,000 grant from the National Conference of Bankruptcy Judges Endowment Fund for Education to conduct the program.

State and federal judges interested in future bankruptcy education programs should contact the American Bankruptcy Institute, 510 C Street, N.E., Washington, DC 20002, phone: (202) 543-1234. ❑

Boyum Receives 1994 Warren E. Burger Award; Nominations Being Solicited for 1995 Award

The National Center for State Courts' (NCSC) board of directors has chosen Keith O. Boyum, the John Brown Mason Professor of political science at California State University, Fullerton, to receive the 1994 Warren E. Burger Award. The award is presented annually by NCSC's Institute for Court Management (ICM) to honor outstanding achievement in the field of court administration.

Boyum was editor-in-chief of ICM's *Justice System Journal* from 1989 to 1994. The *Justice System Journal* is a refereed journal focusing on judicial administration and processes. According to Ingo Keilitz, vice president in charge of ICM, "Boyum successfully and admirably steered [the *Justice System Journal*] through an ever-changing landscape of justice system scholarship and praxis. In doing so, he helped define and shape that landscape."

The NCSC is seeking nominations for the 1995 Warren E. Burger Award. The recipient will be chosen by NCSC's board of directors at its April 1995 meeting.

Nominees should have made significant contributions to court management in one or more of the following areas: management and administration; education and training; and research and consulting.

Nominations and supporting information must be received by **January 15, 1995**. Please send nominations to the Warren E. Burger Award Committee, Institute for Court Management, P.O. Box 8798, Williamsburg, VA 23187-8798, phone: (804) 259-1815; fax: (804) 220-0449. ❑

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